

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ABRAHAM PEDROS VILLALOBOS,

Plaintiff,

v.

DIRECTOR, TDCJ-CID,

Defendant.

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Civil Action No. 5:21-CV-88-RWS-JBB

ORDER

Petitioner Abraham Pedros Villalobos, a prisoner confined at the Telford Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, sought a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Docket No. 1. The Court ordered that this matter be referred to United States Magistrate Judge J. Boone Baxter for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge submitted a report recommending that the petition be denied. Docket No. 8. The Court has received and considered the report and recommendation of the Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the report and recommendation. Docket No. 10. The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

The Magistrate Judge found that any claims concerning Petitioner's conviction and sentence are barred by the statute of limitations, and that his claims concerning parole do not present an arguable basis for federal habeas relief. Docket No. 8. Petitioner's objections do not address the substance of the Magistrate Judge's report; instead, he discusses his alleged rights under the Uniform Commercial Code and commercial agreements. Docket No. 10 at 4. After careful consideration of all the pleadings and the relevant case law, the Court concludes that Petitioner's objections lack merit.

Further, Petitioner is not entitled to the issuance of a certificate of appealability. An appeal from a judgment denying federal habeas corpus relief may not proceed unless a judge issues a


certificate of appealability. *See* 28 U.S.C. § 2253; FED. R. APP. P. 22(b). The standard for granting a certificate of appealability, like that for granting a certificate of probable cause to appeal under prior law, requires the petitioner to make a substantial showing of the denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 483–84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004); *see also Barefoot v. Estelle*, 463 U.S. 880, 893 (1982). In making that substantial showing, the petitioner need not establish that he should prevail on the merits. Rather, he must demonstrate that the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions presented are worthy of encouragement to proceed further. *See Slack*, 529 U.S. at 483-84; *Avila v. Quarterman*, 560 F.3d 299, 304 (5th Cir. 2009). If the petition was denied on procedural grounds, the petitioner must show that jurists of reason would find it debatable: (1) whether the petition raises a valid claim of the denial of a constitutional right, and (2) whether the district court was correct in its procedural ruling. *Slack*, 529 U.S. at 484; *Elizalde*, 362 F.3d at 328. Any doubt regarding whether to grant a certificate of appealability is resolved in favor of the petitioner, and the severity of the penalty may be considered in making this determination. *See Miller v. Johnson*, 200 F.3d 274, 280-81 (5th Cir. 2000).

Petitioner has not shown that any of the issues raised by his claims are subject to debate among jurists of reason or that a procedural ruling was incorrect. In addition, the questions presented are not worthy of encouragement to proceed further. Petitioner has failed to make a sufficient showing to merit the issuance of a certificate of appealability. Accordingly, it is

ORDERED that Petitioner’s objections (Docket No. 10) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct. Accordingly, it is further

ORDERED that the report of the magistrate judge (Docket No. 8) is **ADOPTED** as the opinion of the District Court. A final judgment will be entered in this case in accordance with the magistrate judge’s recommendation. A certificate of appealability will not be issued.

So ORDERED and SIGNED this 23rd day of March, 2023.

A handwritten signature in cursive script, reading "Robert W. Schroeder III", followed by a small circular mark.

ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE